

FILED

DEC 22 2010

PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

UNITED STATES OF AMERICA,) CR 10-31-M-DWM
)
Plaintiff,)
)
vs.) ORDER
)
KENNETH A. SCHNEIDER,)
)
Defendant.)
)

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on December 1, 2010. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d

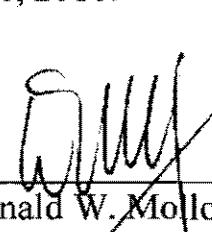
422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Kenneth A. Schneider's guilty plea after Schneider appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to the charge of one count of wire fraud in violation of 18 U.S.C. § 1343 as set forth in Count I of the Indictment. Defendant has agreed to the forfeiture allegations advanced under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) 2253(a)(3). In exchange for Defendant's plea, the United States has agreed to dismiss Count II of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (dkt # 17) and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Kenneth A. Schneider's motion to change plea (dkt # 8) is GRANTED.

DATED this 22 day of December, 2010.


Donald W. Molloy, District Judge
United States District Court